

ant to paragraphs (1) and (2), shall be allocated among Boards located in regions submitting research project grant applications pursuant to section 1447d(b) of this title which, in the judgment of the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, propose the most needed and highest quality research.

(Pub. L. 92-532, title IV, § 407, as added Pub. L. 101-593, title III, § 301, Nov. 16, 1990, 104 Stat. 2969.)

CHAPTER 33—COASTAL ZONE MANAGEMENT

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§ 1451. Congressional findings

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;¹

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

(Pub. L. 89-454, title III, § 302, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280; amended Pub. L. 94-370, § 2, July 26, 1976, 90 Stat. 1013; Pub. L. 96-464, § 2, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, § 6203(a), Nov. 5, 1990, 104 Stat. 1388-300.)

¹ So in original. The semicolon probably should be a period.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-508, § 6203(a)(1), inserted “habitat areas of the” before “coastal zone”.

Subsec. (f). Pub. L. 101-508, § 6203(a)(2), inserted “exclusive economic zone,” after “territorial sea.”

Subsecs. (k) to (m). Pub. L. 101-508, § 6203(a)(3), added subsecs. (k) to (m).

1980—Subsecs. (f) to (j). Pub. L. 96-464, § 2(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

1976—Subsec. (b). Pub. L. 94-370, § 2(1), inserted “ecological,” after “recreational.”

Subsec. (i). Pub. L. 94-370, § 2(3), added subsec. (i).

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-11, title XII, § 12501, Mar. 30, 2009, 123 Stat. 1442, provided that: “This Act [probably should be “sub-title”, meaning subtitle E (§§ 12501, 12502) of title XII of Pub. L. 111-11, enacting section 1456-1 of this title] may be cited as the ‘Coastal and Estuarine Land Conservation Program Act’.”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-456, title I, § 101, Dec. 10, 2004, 118 Stat. 3630, formerly set out as a note under this section, was transferred and is set out as a note under section 4001 of Title 33, Navigation and Navigable Waters.

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-150, § 1, June 3, 1996, 110 Stat. 1380, provided that: “This Act [enacting section 1465 of this title, amending sections 1454, 1455a, 1456a, 1456b, 1461, and 1464 of this title, and enacting provisions set out as a note under section 1454 of this title] may be cited as the ‘Coastal Zone Protection Act of 1996’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-508, title VI, § 6201, Nov. 5, 1990, 104 Stat. 1388-299, provided that: “This subtitle [subtitle C (§§ 6201-6217) of title VI of Pub. L. 101-508, enacting sections 1455b, 1456c, and 1460 of this title, amending this section and sections 1452 to 1456b, 1458, 1461, and 1464 of this title, and enacting provisions set out as notes under this section and section 1455 of this title] may be cited as the ‘Coastal Zone Act Reauthorization Amendments of 1990’.”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-272, title VI, § 6041, Apr. 7, 1986, 100 Stat. 124, provided that: “This subtitle [subtitle D (§§ 6041-6047) of title VI of Pub. L. 99-272, amending sections 1455, 1455a, 1456a, 1458, 1461, and 1464 of this title, repealing sections 1456c and 1460 of this title, and repealing provisions set out as a note under this section] may be cited as the ‘Coastal Zone Management Reauthorization Act of 1985’.”

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-464, § 1, Oct. 17, 1980, 94 Stat. 2060, provided: “That this Act [enacting sections 1455a and 1463a of this title, amending this section and sections 1452, 1453, 1455, 1456a, 1456b, 1458, 1461, 1462, and 1464 of this title, and enacting provisions set out as notes under sections 1455, 1458, and 1463a of this title] may be cited as the ‘Coastal Zone Management Improvement Act of 1980’.”

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-370, § 1, July 26, 1976, 90 Stat. 1013, provided: “That this Act [enacting section 1511a of Title 15, Commerce and Trade, and sections 1456a to 1456c of this title, amending this section, sections 1453 to 1456 and 1457 to 1464 of this title, and section 5316 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1511a of Title 15 and section 1462 of this title] may be cited as the ‘Coastal Zone Management Act Amendments of 1976’.”

SHORT TITLE

Pub. L. 89-454, title III, § 301, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, provided that: “This

title [enacting this chapter] may be cited as the ‘Coastal Zone Management Act of 1972’.”

HYPOXIA ASSESSMENT

Pub. L. 110-114, title V, § 5022, Nov. 8, 2007, 121 Stat. 1203, provided that: “The Secretary [of the Army] may participate with Federal, State, and local agencies, non-Federal and nonprofit entities, regional researchers, and other interested parties to assess hypoxia in the Gulf of Mexico.”

HARMFUL ALGAL BLOOMS AND HYPOXIA RESEARCH AND CONTROL

Pub. L. 108-456, title I, § 102 (part), Dec. 10, 2004, 118 Stat. 3630, formerly set out as a note under this section, was transferred to section 4001a of Title 33, Navigation and Navigable Waters.

Pub. L. 105-383, title VI, Nov. 13, 1998, 112 Stat. 3447, as amended by Pub. L. 108-456, title I, §§ 102-105, Dec. 10, 2004, 118 Stat. 3630-3633; Pub. L. 110-161, div. B, title V, § 528, Dec. 26, 2007, 121 Stat. 1930, formerly set out as a note under this section, was transferred to chapter 53 (§ 4001 et seq.) of Title 33, Navigation and Navigable Waters.

FINDINGS AND PURPOSE OF COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990

Pub. L. 101-508, title VI, § 6202, Nov. 5, 1990, 104 Stat. 1388-299, provided that:

“(a) FINDINGS.—Congress finds and declares the following:

“(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

“(2) Almost one-half of our total population now lives in coastal areas. By 2010, the coastal population will have grown from 80,000,000 in 1960 to 127,000,000 people, an increase of approximately 60 percent, and population density in coastal counties will be among the highest in the Nation.

“(3) Marine resources contribute to the Nation’s economic stability. Commercial and recreational fishery activities support an industry with an estimated value of \$12,000,000,000 a year.

“(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation’s shores from storm and wave damage. Coastal wetlands contribute an estimated \$5,000,000,000 to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation’s coastal wetlands have been destroyed, and more are likely to decline in the near future.

“(5) Nonpoint source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

“(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

“(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in significant global sea level rise by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wet-

lands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

“(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

“(9) All coastal States should have coastal zone management programs in place that conform to the Coastal Zone Management Act of 1972, as amended by this Act.

“(b) PURPOSE.—It is the purpose of Congress in this subtitle [see Short Title of 1990 Amendment note above] to enhance the effectiveness of the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.] by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.”

ESTABLISHMENT OF POSITIONS AND FIXING OF COMPENSATION BY SECRETARY OF COMMERCE; APPOINTMENTS

Pub. L. 94-370, §15(c), July 26, 1976, 90 Stat. 1032, related to establishment and compensation of four new positions without regard to the provisions of chapter 51 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 99-272, title VI, §6045(3), Apr. 7, 1986, 100 Stat. 127.

TERRITORIAL SEA OF UNITED STATES

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

EXECUTIVE ORDER NO. 13554

Ex. Ord. No. 13554, Oct. 5, 2010, 75 F.R. 62313, which established the Gulf Coast Ecosystem Restoration Task Force, was revoked, concurrent with the termination of the Task Force, by Ex. Ord. No. 13626, §6(d), Sept. 10, 2012, 77 F.R. 56752, set out as a note under section 1321 of Title 33, Navigation and Navigable Waters.

§ 1452. Congressional declaration of policy

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, flood plains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely

to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.¹

(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies, and

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this chapter;

(5) to encourage coordination and cooperation with and among the appropriate Federal,

¹ So in original. The period probably should be a comma.

State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

(Pub. L. 89-454, title III, §303, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 96-464, §3, Oct. 17, 1980, 94 Stat. 2060; Pub. L. 101-508, title VI, §6203(b), Nov. 5, 1990, 104 Stat. 1388-301; Pub. L. 102-587, title II, §2205(b)(2), Nov. 4, 1992, 106 Stat. 5050.)

AMENDMENTS

1992—Par. (2). Pub. L. 102-587 made technical amendment to directory language of Pub. L. 101-508, §6203(b)(1). See 1990 Amendment note below.

1990—Par. (2). Pub. L. 101-508, §6203(b)(1), as amended by Pub. L. 102-587, substituted “as well as the needs for compatible” for “as well as to needs for”.

Par. (2)(B). Pub. L. 101-508, §6203(b)(2), substituted “likely to be affected by or vulnerable to sea level rise, land subsidence,” for “of subsidence”.

Par. (2)(C) to (J). Pub. L. 101-508, §6203(b)(3), redesignated subpars. (C) to (I) as (D) to (J), respectively, and added subpar. (C).

Par. (2)(K). Pub. L. 101-508, §6203(b)(4), added subpar. (K).

Par. (3). Pub. L. 101-508, §6203(b)(5), inserted “including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes,” after “hazardous areas.”

Pars. (5), (6). Pub. L. 101-508, §6203(b)(6), added pars. (5) and (6).

1980—Pub. L. 96-464, in amending section generally, expanded declaration of policy to provide for higher level of protection for significant natural coastal resources and inserted provisions for special area management planning to increase predictability for necessary coastal-dependent economic growth, improve hazard mitigation, and improve predictability in government decisionmaking.

§ 1453. Definitions

For purposes of this chapter—

(1) The term “coastal zone” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 [48 U.S.C. 1801 et seq.], or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The

zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(2) The term “coastal resource of national significance” means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value.

(3) The term “coastal waters” means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term “coastal state” means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) The term “coastal energy activity” means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, or in close proximity to, the coastal zone of any coastal state;¹

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deep-water port, as defined in section 1502(10)² of title 33).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be “in close proximity to” the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

¹ So in original. The semicolon probably should be a colon.

² See References in Text note below.

(6) The term “energy facilities” means any equipment or facility which is or will be used primarily—

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(6a) The term “enforceable policy” means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

(7) The term “estuary” means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term “estuarine sanctuary” means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term “Fund” means the Coastal Zone Management Fund established under section 1456a(b) of this title.

(10) The term “land use” means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

(11) The term “local government” means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state’s coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term “management program” includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term “outer Continental Shelf energy activity” means any exploration for, or any development or production of, oil or natural gas from the outer Continental Shelf (as defined in section 1331(a) of title 43) or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term “person” means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term “public facilities and public services” means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term “Secretary” means the Secretary of Commerce.

(17) The term “special area management plan” means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

(18) The term “water use” means a use, activity, or project conducted in or on waters within the coastal zone.

(Pub. L. 89-454, title III, §304, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1281; amended Pub. L. 94-370, §3, July 26, 1976, 90 Stat. 1013; Pub. L. 96-464, §4, Oct. 17, 1980, 94 Stat. 2061; Pub. L. 101-508, title VI, §6204, Nov. 5, 1990, 104 Stat. 1388-302; Pub. L. 102-587, title II, §2205(b)(3)-(7), Nov. 4, 1992, 106 Stat. 5050, 5051.)

REFERENCES IN TEXT

The Submerged Lands Act, referred to in par. (1), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of March 2, 1917, referred to in par. (1), is act Mar. 2, 1917, ch. 145, 39 Stat. 951, as amended, known as the Puerto Rican Federal Relations Act and also as the Jones Act, which is classified principally to chapter 4

(§731 et seq.) of Title 48, Territories and Insular Possessions. Section 8 of the Act is classified to section 749 of Title 48. For complete classification of this Act to the Code, see Short Title note set out under section 731 of Title 48 and Tables.

Act of March 24, 1976, referred to in par. (1), is Pub. L. 94-241, Mar. 24, 1976, 90 Stat. 263, as amended, which is classified generally to subchapter I (§1801 et seq.) of chapter 17 of Title 48. The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America is set out as a note under section 1801 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 1 of the Act of November 20, 1963, referred to in par. (1), is section 1 of Pub. L. 88-183, Nov. 20, 1963, 77 Stat. 338, which was classified to section 1701 of Title 48, and was repealed by Pub. L. 93-435, §5, Oct. 5, 1974, 88 Stat. 1212. See section 1705 of Title 48.

Section 1502 of title 33, referred to in par. (5)(iii), was subsequently amended, and section 1502(10) no longer defines the term “deepwater port”. However, such term is defined elsewhere in that section.

AMENDMENTS

1992—Par. (1). Pub. L. 102-587, §2205(b)(3), made technical amendment to directory language of Pub. L. 101-508, §6204(a). See 1990 Amendment note below.

Pub. L. 102-587, §2205(b)(5), struck out “the outer limit of” before “the outer limit of State title”, and substituted “(48 U.S.C. 1705),” for “(48 U.S.C. 1705).”

Par. (2). Pub. L. 102-587, §2205(b)(6), substituted “The term” for “the term”.

Par. (6a). Pub. L. 102-587, §2205(b)(4), made technical amendment to directory language of Pub. L. 101-508, §6204(b). See 1990 Amendment note below.

Par. (9). Pub. L. 102-587, §2205(b)(7), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “The term ‘Fund’ means the Coastal Energy Impact Fund established by section 1456a(h) of this title.”

1990—Par. (1). Pub. L. 101-508, §6204(a)(1), as amended by Pub. L. 102-587, §2205(b)(3), inserted “, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise” before period at end of third sentence.

Pub. L. 101-508, §6204(a)(2), as amended by Pub. L. 102-587, §2205(b)(3), substituted “the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705, as applicable.” for “the United States territorial sea.” at end of second sentence.

Par. (6a). Pub. L. 101-508, §6204(b), as amended by Pub. L. 102-587, §2205(b)(4), added par. (6a).

Par. (18). Pub. L. 101-508, §6204(c), substituted “a use, activity, or project conducted in or on waters within the coastal zone” for “activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 1456(f) of this title”.

1980—Pars. (2) to (4). Pub. L. 96-464, §4(1)–(3), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), and in par. (4), as so redesignated, substituted “Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa” for “Guam and American Samoa”. Former par. (4) redesignated (5).

Pars. (5) to (16). Pub. L. 96-464, §4(1), redesignated pars. (4) to (15) as (5) to (16). Former par. (16) redesignated (17).

Pars. (17), (18). Pub. L. 96-464, §4(1), (4), (5), added par. (17) and redesignated former par. (17) as (18).

1976—Par. (1). Pub. L. 94-370, §3(1), redesignated par. (a) as (1), substituted “The term ‘coastal’” for “‘Coastal’”, and inserted “islands,” after “and includes”.

Par. (2). Pub. L. 94-370, §3(2), redesignated par. (b) as (2), substituted “The term ‘coastal’” for “‘Coastal’”, “(A)” for “(1)”, and “(B)” for “(2)”.

Par. (3). Pub. L. 94-370, §3(3), redesignated par. (c) as (3) and substituted “The term ‘coastal’” for “‘Coastal’”.

Pars. (4), (5). Pub. L. 94-370, §3(4), added pars. (4) and (5).

Par. (6). Pub. L. 94-370, §3(5), redesignated par. (d) as (6) and substituted “The term ‘estuary’” for “‘Estuary’”.

Par. (7). Pub. L. 94-370, §3(6), redesignated par. (e) as (7) and substituted “The term ‘estuarine’” for “‘Estuarine’” and “estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitutes” for “estuary, adjoining transitional areas, and adjacent uplands, constituting”.

Par. (8). Pub. L. 94-370, §3(7), added par. (8).

Par. (9). Pub. L. 94-370, §3(7), added par. (9), incorporating provisions of par. (1), which was struck out by Pub. L. 94-370, §3(11).

Par. (10). Pub. L. 94-370, §3(7), added par. (10).

Par. (11). Pub. L. 94-370, §3(8), redesignated par. (g) as (11) and substituted “The term ‘management program’” for “‘Management program’”.

Pars. (12) to (14). Pub. L. 94-370, §3(9), added pars. (12) to (14).

Par. (15). Pub. L. 94-370, §3(9), added par. (15), incorporating provisions of par. (f), which was struck out by Pub. L. 94-370, §3(7).

Par. (16). Pub. L. 94-370, §3(10), redesignated par. (h) as (16) and substituted “The term ‘water use’” for “‘Water use’”.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

PROC. NO. 5030. EXCLUSIVE ECONOMIC ZONE

Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, provided:

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international

law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

RONALD REAGAN.

§ 1454. Submittal of State program for approval

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 1455 of this title.

(Pub. L. 89-454, title III, § 305, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1282; amended Pub. L. 93-612, § 1(1), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, § 4, July 26, 1976, 90 Stat. 1015; Pub. L. 101-508, title VI, § 6205, Nov. 5, 1990, 104 Stat. 1388-302; Pub. L. 102-587, title II, § 2205(b)(1)(A), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104-150, § 2(a), (b)(1), June 3, 1996, 110 Stat. 1380.)

AMENDMENTS

1996—Pub. L. 104-150, § 2(b)(1), substituted “Submittal of State program for approval” for “Management program development grants” in section catchline, struck out “(b)” before “Any coastal state”, and struck out subsec. (a) which read as follows: “In fiscal years 1997, 1998, and 1999, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 1455 of this title. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than four grants pursuant to this subsection.”

Subsec. (a). Pub. L. 104-150, § 2(a), substituted “1997, 1998, and 1999” for “1991, 1992, and 1993” and “four grants” for “two grants”.

1992—Pub. L. 102-587 substituted “coastal state” for “coastal State” in last sentence of subsec. (a) and in subsec. (b).

1990—Pub. L. 101-508 amended section generally, substituting present provisions for provisions which authorized management program development grants, established program requirements, set limits on grants, provided for grants for completion of development and implementation of management programs, provided for allocation of grants, reversion of unobligated grants, and grants to other political subdivisions, required submission of program for review and approval, and set forth an expiration date of grant authority.

1976—Subsec. (a). Pub. L. 94-370 incorporated existing provisions into par. (1), limiting applicability of such provisions to subsec. (c), and added par. (2).

Subsec. (b). Pub. L. 94-370 added pars. (7) to (9) and effective date provisions of such paragraphs after par. (9).

Subsec. (c). Pub. L. 94-370 substituted provision that grant should not exceed 80 per centum of a coastal state’s costs for purposes described in subsection (a)(1) of this section for provision that grant should not exceed 66½ per centum of the costs of the program in any one year, expanded to four the number of grants a state is eligible to receive pursuant to this subsection, and struck out provision that Federal funds received from other sources shall not be used to match such grants.

Subsec. (d). Pub. L. 94-370 substituted provisions authorizing Secretary to make grants annually to any coastal state for purposes described in subsection (a)(2) and setting forth eligibility prerequisites for initial implementation grants for provisions, which were incorporated into subsec. (h), authorizing Secretary to review and approve the state’s submitted management program which on final approval terminates state’s eligibility under this section, but commences state’s eligibility under section 1455 of this title.

Subsec. (e). Pub. L. 94-370 restructured existing provisions into pars. (1) and (2), and as so restructured, substituted in provisions preceding par. (1) reference to shall be made to, and allocated among, the coastal states for reference to shall be allocated to the states, and in par. (1) inserted proviso relating to the waiver at the option of the Secretary of the 10 per centum maximum requirement.

Subsec. (f). Pub. L. 94-370 substituted “The amount of any grant” for “Grant” and “the coastal state” for “a state”.

Subsec. (g). Pub. L. 94-370 substituted “any coastal state” for “the state” and inserted “received by it” before “under this section”.

Subsecs. (h), (i). Pub. L. 94-370 added subsec. (h) which incorporated provisions of former subsec. (d), redesignated former subsec. (h) as (i), and substituted “September 30, 1979” for “June 30, 1977”.

1975—Subsec. (e). Pub. L. 93-612 inserted proviso relating to the waiver by the Secretary of the 1 per centum minimum requirement upon request by the coastal state.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-150, § 2(b)(3), June 3, 1996, 110 Stat. 1380, provided that: “This subsection [amending this section and section 1456a of this title] shall take effect on October 1, 1999.”

§ 1455. Administrative grants

(a) Authorization; matching funds

The Secretary may make grants to any coastal state for the purpose of administering that State’s management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to November 5, 1990, 1 to 1 for any fiscal year.

(2) For programs approved after November 5, 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fis-

cal year, and 1 to 1 for each fiscal year thereafter.

(b) Grants to coastal states; requirements

The Secretary may make a grant to a coastal state under subsection (a) only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this chapter and has been approved in accordance with subsection (d).

(c) Allocation of grants to coastal states

Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

(d) Mandatory adoption of State management program for coastal zone

Before approving a management program submitted by a coastal state, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

(G) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational,

historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this chapter; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national inter-

est involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development¹ to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

(16) The management program contains enforceable policies and mechanisms to imple-

ment the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

(e) Amendment or modification of State management program for coastal zone

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 1456 of this title.

(Pub. L. 89-454, title III, §306, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1283; amended Pub. L. 93-612, §1(2), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, §5, July 26, 1976, 90 Stat. 1017; Pub. L. 96-464, §5(a), Oct. 17, 1980, 94 Stat. 2062; Pub. L. 99-272, title VI, §6043(b)(1), (c), Apr. 7, 1986, 100 Stat. 124, 125; Pub. L. 101-508, title VI, §6206(a), Nov. 5, 1990, 104 Stat. 1388-303; Pub. L. 102-587, title II, §2205(b)(1)(A), (B), (8), Nov. 4, 1992, 106 Stat. 5050, 5051.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91-190, Jan. 1, 1970,

¹ So in original. Probably should be followed by a comma.

83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1992—Subsecs. (a) to (d), (e)(2), (3)(A). Pub. L. 102-587 substituted “coastal state” and “coastal states” for “coastal State” and “coastal States”, respectively, wherever appearing, and substituted period for semicolon at end of subsec. (b).

1990—Pub. L. 101-508 amended section generally, substituting present provisions for provisions which authorized grants for administering a state management program, provided for a ratio of Federal to State contributions, allocation of grants, program requirements, required authority for management of coastal zone, required findings prior to approval of grants, allocation to other political subdivisions, program modification, segmental development, and inventory and designation of areas of national significance and standards for protection of coastal resources.

1986—Subsec. (a). Pub. L. 99-272, §6043(b)(1), amended introductory text generally, which prior to amendment read as follows: “The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state’s management program if the Secretary—”.

Subsec. (g). Pub. L. 99-272, §6043(c), inserted “, and subject to the following conditions:” in provisions preceding par. (1), added pars. (1) to (3), and struck out provision that except with respect to any management program amendment which was made before Oct. 1, 1978, for the purpose of complying with the requirements of section 1454(b)(7), (8) and (9) of this title, no grant was to be made under this section to any coastal state after the date of such amendment or modification, until the Secretary approved such amendment or modification.

1980—Subsec. (a). Pub. L. 96-464, §5(a)(1), in opening text, substituted “The Secretary may make grants” for “The Secretary may make a grant annually”, added par. (3), and provision following par. (3) which defined the costs of administering a management program.

Subsec. (b). Pub. L. 96-464, §5(2), struck out proviso that no annual grant made under this section shall be in excess of \$2,000,000 for fiscal year 1975, in excess of \$2,500,000 for fiscal year 1976, and in excess of \$3,000,000 for fiscal year 1977.

Subsec. (i). Pub. L. 96-464, §5(a)(3), added subsec. (i). 1976—Subsec. (a). Pub. L. 94-370, §5(1), raised the federal share of grants to 80 per centum from 66% per centum of the cost of administering a state’s management program, substituted requirement that Secretary approve state’s management program in accordance with subsecs. (c), (d), and (e) and find that such programs meet requirements under section 1454(b) of this title for requirement that Secretary approve state’s management programs in accordance with subsec. (c), and struck out proviso that Federal funds from other sources shall not be used to pay the state’s share of costs.

Subsec. (c)(2)(B). Pub. L. 94-370, §5(2), inserted provisions that mechanism not be found to be effective by Secretary until management agency meets certain requirement such as notice to affected zoning authority, 30-day period for zoning authority to respond with recommendations, and action to be taken by management agency where zoning authority does submit recommendations.

Subsec. (c)(8). Pub. L. 94-370, §5(3), inserted “planning for, and” before “in the siting of” and reference to energy facilities in, or which significantly affect, such state’s coastal zone and inserted proviso that in the case of energy facilities, the Secretary shall find that the state has given consideration to any applicable interstate energy plan or program.

Subsec. (g). Pub. L. 94-370, §5(4), inserted requirement that except for pre-Oct. 1, 1978 amendments of manage-

ment programs, for purposes of complying with section 1454(b)(7), (8), and (9) of this title, no grant shall be made under this section to any coastal state after the date of an amendment until approved by Secretary.

1975—Subsec. (b). Pub. L. 93-612 substituted provisos establishing maximum amount of annual grant for fiscal years 1975, 1976, and 1977, establishing a minimum of 1 per centum of the total appropriated amount, and providing for waiver of the 1 per centum minimum upon request of the coastal State, for proviso limiting an annual administrative grant to a maximum of 10 per centum and a minimum of 1 per centum of the total appropriated amount.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-464, §5(b), Oct. 17, 1980, 94 Stat. 2062, provided that: “The amendments made by subsection (a)(1) and (2) of this section [amending this section] apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 [this section] and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1)).”

ADDITIONAL PROGRAM REQUIREMENTS

Pub. L. 101-508, title VI, §6206(b), Nov. 5, 1990, 104 Stat. 1388-306, provided that: “Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act [Nov. 5, 1990]), shall demonstrate to the Secretary—

“(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

“(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)].”

§ 1455a. Coastal resource improvement program

(a) Definitions

For purposes of this section—

(1) The term “eligible coastal state” means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 1455 of this title; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (K) of this title.

(2) The term “urban waterfront and port” means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) Resource management improvement grants

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 1455(d)(9) of this title because of their conservation recreational, ecological, or esthetic values, or (B) contain one

or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 1455(d)(2)(G) of this title.

(4) The development of a coordinated process among State agencies to regulate and issue permits for aquaculture facilities in the coastal zone.

(c) Uses, terms and conditions of grants

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2)—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d) State matching contributions; ratio; maximum amount of grants

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal

year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) Allocation of grants to local governments and other agencies

With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 3334 of title 42, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) Other technical and financial assistance

In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

(Pub. L. 89-454, title II, §306A, as added Pub. L. 96-464, §6, Oct. 17, 1980, 94 Stat. 2062; amended Pub. L. 99-272, title VI, §6043(b)(2), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §6207, 6216(a), Nov. 5, 1990, 104 Stat. 1388-307, 1388-314; Pub. L. 102-587, title II, §2205(b)(9)-(12), Nov. 4, 1992, 106 Stat. 5051; Pub. L. 104-150, §7(1), June 3, 1996, 110 Stat. 1381.)

AMENDMENTS

1996—Subsec. (b)(4). Pub. L. 104-150 added par. (4).

1992—Subsec. (a)(1)(B). Pub. L. 102-587, §2205(b)(10), substituted “through (K)” for “through (I)”.

Subsec. (b)(1). Pub. L. 102-587, §2205(b)(9), made technical amendment to directory language of Pub. L. 101-508, §6216(a). See 1990 Amendment note below.

Subsec. (b)(2). Pub. L. 102-587, §2205(b)(11)(A), substituted “that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern” for “that are designated under section 1454(b)(3) of this title in the state's management program as areas of particular concern”.

Subsec. (b)(3). Pub. L. 102-587, §2205(b)(11)(B), substituted “access to” for “access of” and “1455(d)(2)(G)” for “1454(b)(7)”.

Subsec. (c)(2)(C). Pub. L. 102-587, §2205(b)(12), in closing provisions, substituted “shall not be” for “shall not by”.

1990—Subsec. (b)(1). Pub. L. 101-508, §6216(a), as amended by Pub. L. 102-587, §2205(b)(9), substituted “1455(d)(9)” for “1455(c)(9)”.

Pub. L. 101-508, §6207, inserted before period at end “, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts”.

1986—Subsec. (d)(1). Pub. L. 99-272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.”

§ 1455b. Protecting coastal waters**(a) In general****(1) Program development**

Not later than 30 months after the date of the publication of final guidance under subsection (g), each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455] shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) Program coordination

A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 1288, 1313, 1329, and 1330 of title 33 and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1451 et seq.]. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 1329 of title 33, as the program under that section relates to land and water uses affecting coastal waters.

(b) Program contents

Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g), to protect coastal waters generally, and shall also contain the following:

(1) Identifying land uses

The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) Identifying critical coastal areas

The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g).

(3) Management measures

The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas

identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 1313 of title 33 and protect designated uses.

(4) Technical assistance

The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) Public participation

Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) Administrative coordination

The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) State coastal zone boundary modification

A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) Program submission, approval, and implementation**(1) Review and approval**

Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) Implementation of approved program

If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b), through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 1329 of title 33; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act [16 U.S.C. 1455].

(3) Withholding coastal management assistance

If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as follows:

- (A) 10 percent for fiscal year 1996.
- (B) 15 percent for fiscal year 1997.
- (C) 20 percent for fiscal year 1998.
- (D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

(4) Withholding water pollution control assistance

If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 1329 of title 33, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

- (A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.
- (B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.
- (C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.
- (D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) Technical assistance

The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

- (1) methods for assessing water quality impacts associated with coastal land uses;
- (2) methods for assessing the cumulative water quality effects of coastal development;
- (3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and
- (4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) Inland coastal zone boundaries

(1) Review

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after November 5, 1990, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) Recommendation

If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) Financial assistance

(1) In general

Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

(2) Amount

The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) State share

The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) Allocation

Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(c)], except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) Guidance for coastal nonpoint source pollution control

(1) In general

The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) Content

Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) Publication

The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after November 5, 1990; and

(B) final guidance pursuant to this subsection not later than 18 months after November 5, 1990.

(4) Notice and comment

The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) Management measures

For purposes of this subsection, the term “management measures” means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) Authorization of appropriations**(1) Administrator**

There is authorized to be appropriated to the Administrator for use for carrying out this section not more than \$1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) Secretary

(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4)¹ of the Coastal Zone Management Act of 1972, as amended by this Act, not more than \$1,000,000 shall be available for use by the Secretary for carrying out this section for that

fiscal year, other than for providing in the form of grants under subsection (f).

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) not more than—

(i) \$6,000,000 for fiscal year 1992;

(ii) \$12,000,000 for fiscal year 1993;

(iii) \$12,000,000 for fiscal year 1994; and

(iv) \$12,000,000 for fiscal year 1995.

(i) Definitions

In this section—

(1) the term “Administrator” means the Administrator of the Environmental Protection Agency;

(2) the term “coastal State” has the meaning given the term “coastal state” under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms “coastal waters” and “coastal zone” has the meaning that term has in the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.];

(4) the term “coastal management agency” means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455(d)(6)];

(5) the term “land use” includes a use of waters adjacent to coastal waters; and

(6) the term “Secretary” means the Secretary of Commerce.

(Pub. L. 101-508, title VI, §6217, Nov. 5, 1990, 104 Stat. 1388-314; Pub. L. 102-587, title II, §2205(b)(24), Nov. 4, 1992, 106 Stat. 5052.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsecs. (a)(2) and (i)(3), is title III of Pub. L. 89-454 as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

This Act, referred to in subsecs. (a)(2) and (c)(2)(B), is Pub. L. 101-508, Nov. 5, 1990, 104 Stat. 1388, known as the Omnibus Budget Reconciliation Act of 1990. For complete classification of this Act to the Code, see Tables.

Section 318(a) of the Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A), which is classified to section 1464(a) of this title, was amended by Pub. L. 104-150, §4(1), June 3, 1996, 110 Stat. 1381, and, as so amended, does not contain a par. (4).

CODIFICATION

Section was enacted as part of the Coastal Zone Act Reauthorization Amendments of 1990 and also as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

AMENDMENTS

1992—Subsec. (i)(3). Pub. L. 102-587 struck out comma after “coastal waters” and inserted “Zone” before “Management”.

§ 1456. Coordination and cooperation**(a) Federal agencies**

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

¹ See References in Text note below.

(b) Adequate consideration of views of Federal agencies

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered.

(c) Consistency of Federal activities with State management programs; Presidential exemption; certification

(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 1455(d)(6) of this title at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved state management programs.

(3)(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each

coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land or water use or natural resource of the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with the enforceable policies of such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is de-

scribed in detail in such plan is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) Application of local governments for Federal assistance; relationship of activities with approved management programs

State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

(e) Construction with other laws

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Construction with existing requirements of water and air pollution programs

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) Concurrence with programs which affect inland areas

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(h) Mediation of disagreements

In case of serious disagreement between any Federal agency and a coastal state—

(1) in the development or the initial implementation of a management program under section 1454 of this title; or

(2) in the administration of a management program approved under section 1455 of this title;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

(i) Application fee for appeals

(1) With respect to appeals under subsections (c)(3) and (d) which are submitted after November 5, 1990, the Secretary shall collect an application fee of not less than \$200 for minor appeals and not less than \$500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee.

(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 1456a of this title.

(Pub. L. 89-454, title III, §307, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1285; amended Pub.

L. 94-370, § 6, July 26, 1976, 90 Stat. 1018; Pub. L. 95-372, title V, § 504, Sept. 18, 1978, 92 Stat. 693; Pub. L. 101-508, title VI, § 6208, Nov. 5, 1990, 104 Stat. 1388-307; Pub. L. 102-587, title II, § 2205(b)(13), (14), Nov. 4, 1992, 106 Stat. 5051.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (c)(3)(B), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

The Federal Water Pollution Control Act, referred to in subsec. (f), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

In subsec. (d), “section 6506 of title 31” substituted for “title IV of the Intergovernmental Coordination [Cooperation] Act of 1968 [42 U.S.C. 4231 et seq.]” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (c)(3)(B). Pub. L. 102-587, § 2205(b)(13), made technical amendment to directory language of Pub. L. 101-508, § 6208(b)(3)(B). See 1990 Amendment note below.

Subsec. (i). Pub. L. 102-587, § 2205(b)(14), designated existing provisions as par. (1), added pars. (2) and (3), and struck out at end of par. (1) “The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c) of this section.”

1990—Subsec. (c)(1). Pub. L. 101-508, § 6208(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.”

Subsec. (c)(2). Pub. L. 101-508, § 6208(b)(1), which directed the insertion of “the enforceable policies of” before “approved State management programs”, was executed by making the insertion before “approved state management programs” to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 101-508, § 6208(b)(2), in first sentence inserted “, in or outside of the coastal zone,” after “to conduct an activity”, substituted “any land or water use or natural resource of” for “land or water uses in”, and inserted “the enforceable policies of” after “the proposed activity complies with”.

Subsec. (c)(3)(B). Pub. L. 101-508, § 6208(b)(3)(A), substituted “land or water use or natural resource of” for “land use or water use in” in first sentence.

Pub. L. 101-508, § 6208(b)(3)(B), as amended by Pub. L. 102-587, § 2205(b)(13), inserted “the enforceable policies of” after “such plan complies with” in first sentence.

Subsec. (d). Pub. L. 101-508, § 6208(b)(4), substituted “, in or outside of the coastal zone, affecting any land or water use of natural resource of” for “affecting” and inserted “the enforceable policies of” after “that are inconsistent with”.

Subsec. (i). Pub. L. 101-508, § 6208(c), added subsec. (i). 1978—Subsec. (c)(3)(B)(ii). Pub. L. 95-372 inserted “, except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed” after “as provided for in subparagraph (A)”.

1976—Subsec. (b). Pub. L. 94-370, § 6(2), struck out provisions requiring that in case of serious disagreement between Federal agency and state in development of program, Secretary shall seek to mediate the differences in cooperation with the Executive Office of the President and incorporated such provision into subsec. (h).

Subsec. (c)(3). Pub. L. 94-370, § 6(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (h). Pub. L. 94-370, § 6(4), added subsec. (h) which incorporates former provision of subsec. (b) relating to mediation by Secretary of disagreements between Federal agencies and state.

§ 1456-1. Authorization of the Coastal and Estuarine Land Conservation Program

(a) In general

The Secretary may conduct a Coastal and Estuarine Land Conservation Program, in cooperation with appropriate State, regional, and other units of government, for the purposes of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural, undeveloped, or recreational state to other uses or could be managed or restored to effectively conserve, enhance, or restore ecological function. The program shall be administered by the National Ocean Service of the National Oceanic and Atmospheric Administration through the Office of Ocean and Coastal Resource Management.

(b) Property acquisition grants

The Secretary shall make grants under the program to coastal states with approved coastal zone management plans or National Estuarine Research Reserve units for the purpose of acquiring property or interests in property described in subsection (a) that will further the goals of—

- (1) a Coastal Zone Management Plan or Program approved under this chapter;
- (2) a National Estuarine Research Reserve management plan;
- (3) a regional or State watershed protection or management plan involving coastal states with approved coastal zone management programs; or
- (4) a State coastal land acquisition plan that is consistent with an approved coastal zone management program.

(c) Grant process

The Secretary shall allocate funds to coastal states or National Estuarine Research Reserves under this section through a competitive grant process in accordance with guidelines that meet the following requirements:

- (1) The Secretary shall consult with the coastal state's coastal zone management pro-

gram, any National Estuarine Research Reserve in that State, and the lead agency designated by the Governor for coordinating the implementation of this section (if different from the coastal zone management program).

(2) Each participating coastal state, after consultation with local governmental entities and other interested stakeholders, shall identify priority conservation needs within the State, the values to be protected by inclusion of lands in the program, and the threats to those values that should be avoided.

(3) Each participating coastal state shall to the extent practicable ensure that the acquisition of property or easements shall complement working waterfront needs.

(4) The applicant shall identify the values to be protected by inclusion of the lands in the program, management activities that are planned and the manner in which they may affect the values identified, and any other information from the landowner relevant to administration and management of the land.

(5) Awards shall be based on demonstrated need for protection and ability to successfully leverage funds among participating entities, including Federal programs, regional organizations, State and other governmental units, landowners, corporations, or private organizations.

(6) The governor, or the lead agency designated by the governor for coordinating the implementation of this section, where appropriate in consultation with the appropriate local government, shall determine that the application is consistent with the State's or territory's approved coastal zone plan, program, and policies prior to submittal to the Secretary.

(7)(A) Priority shall be given to lands described in subsection (a) that can be effectively managed and protected and that have significant ecological value.

(B) Of the projects that meet the standard in subparagraph (A), priority shall be given to lands that—

(i) are under an imminent threat of conversion to a use that will degrade or otherwise diminish their natural, undeveloped, or recreational state; and

(ii) serve to mitigate the adverse impacts caused by coastal population growth in the coastal environment.

(8) In developing guidelines under this section, the Secretary shall consult with coastal states, other Federal agencies, and other interested stakeholders with expertise in land acquisition and conservation procedures.

(9) Eligible coastal states or National Estuarine Research Reserves may allocate grants to local governments or agencies eligible for assistance under section 1455a(e) of this title.

(10) The Secretary shall develop performance measures that the Secretary shall use to evaluate and report on the program's effectiveness in accomplishing its purposes, and shall submit such evaluations to Congress triennially.

(d) Limitations and private property protections

(1) A grant awarded under this section may be used to purchase land or an interest in land, in-

cluding an easement, only from a willing seller. Any such purchase shall not be the result of a forced taking under this section. Nothing in this section requires a private property owner to participate in the program under this section.

(2) Any interest in land, including any easement, acquired with a grant under this section shall not be considered to create any new liability, or have any effect on liability under any other law, of any private property owner with respect to any person injured on the private property.

(3) Nothing in this section requires a private property owner to provide access (including Federal, State, or local government access) to or use of private property unless such property or an interest in such property (including a conservation easement) has been purchased with funds made available under this section.

(e) Recognition of authority to control land use

Nothing in this chapter modifies the authority of Federal, State, or local governments to regulate land use.

(f) Matching requirements

(1) In general

The Secretary may not make a grant under the program unless the Federal funds are matched by non-Federal funds in accordance with this subsection.

(2) Cost share requirement

(A) In general

Grant funds under the program shall require a 100 percent match from other non-Federal sources.

(B) Waiver of requirement

The Secretary may grant a waiver of subparagraph (A) for underserved communities, communities that have an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary deems appropriate and consistent with the purposes of the program.

(3) Other Federal funds

Where financial assistance awarded under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

(4) Source of matching cost share

For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) The value of land or a conservation easement may be used by a project applicant as non-Federal match, if the Secretary determines that—

(i) the land meets the criteria set forth in section 2(b)¹ and is acquired in the period beginning 3 years before the date of the submission of the grant application and ending 3 years after the date of the award of the grant;

(ii) the value of the land or easement is held by a non-governmental organization

¹ So in original. Probably should be "subsection (b)".

included in the grant application in perpetuity for conservation purposes of the program; and

(iii) the land or easement is connected either physically or through a conservation planning process to the land or easement that would be acquired.

(B) The appraised value of the land or conservation easement at the time of the grant closing will be considered and applied as the non-Federal cost share.

(C) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award, or, for lands described in² (A), within the same time limits described therein. These costs may include either cash or in-kind contributions.

(g) Reservation of funds for National Estuarine Research Reserve sites

No less than 15 percent of funds made available under this section shall be available for acquisitions benefitting National Estuarine Research Reserves.

(h) Limit on administrative costs

No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2009 and triennially thereafter.

(i) Title and management of acquired property

If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide—

(1) such assurances as the Secretary may require that—

(A) the title to the property will be held by the grant recipient or another appropriate public agency designated by the recipient in perpetuity;

(B) the property will be managed in a manner that is consistent with the purposes for which the land entered into the program and shall not convert such property to other uses; and

(C) if the property or interest in land is sold, exchanged, or divested, funds equal to the current value will be returned to the Secretary in accordance with applicable Federal law for redistribution in the grant process; and

(2) certification that the property (including any interest in land) will be acquired from a willing seller.

(j) Requirement for property used for non-Federal match

If the grant recipient elects to use any land or interest in land held by a non-governmental organization as a non-Federal match under sub-

section (g), the grant recipient must to the Secretary's satisfaction demonstrate in the grant application that such land or interest will satisfy the same requirements as the lands or interests in lands acquired under the program.

(k) Definitions

In this section:

(1) Conservation easement

The term “conservation easement” includes an easement or restriction, recorded deed, or a reserve interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this section except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

(2) Interest in property

The term “interest in property” includes a conservation easement.

(l) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section \$60,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 89-454, title III, §307A, as added Pub. L. 111-11, title XII, §12502, Mar. 30, 2009, 123 Stat. 1442.)

§ 1456a. Coastal Zone Management Fund

(a)(1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before November 5, 1990, and any repayment schedule established pursuant to this chapter as in effect before November 5, 1990, are not altered by any provision of this chapter. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).

(b)(1) The Secretary shall establish and maintain a fund, to be known as the “Coastal Zone Management Fund”, which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 1456(i)(3) of this title.

²So in original. Probably should be followed by “subparagraph”.

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this chapter, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

- (i) \$4,000,000; or
- (ii) 8 percent of the total amount appropriated under this chapter for the fiscal year.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 1460 of this title; and

(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 1455 of this title.

(Pub. L. 89-454, title III, § 308, as added Pub. L. 94-370, § 7, July 26, 1976, 90 Stat. 1019; amended Pub. L. 95-372, title V, §§ 501, 503(a)-(d), Sept. 18, 1978, 92 Stat. 690, 692, 693; Pub. L. 96-464, § 7, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 99-272, title VI, § 6047, Apr. 7, 1986, 100 Stat. 128; Pub. L. 101-508, title VI, § 6209, Nov. 5, 1990, 104 Stat. 1388-308; Pub. L. 102-587, title II, § 2205(b)(1)(A), (B), (15)-(18), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104-150, § 2(b)(2), 5, June 3, 1996, 110 Stat. 1380, 1381.)

CODIFICATION

Subsec. (b)(3) of this section, which required the Secretary to transmit to Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 143 of House Document No. 103-7.

AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104-150, § 5(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Expenses incident to the administration of this chapter, in an amount not to exceed—

- “(i) \$5,000,000 for fiscal year 1991;
- “(ii) \$5,225,000 for fiscal year 1992;
- “(iii) \$5,460,125 for fiscal year 1993;
- “(iv) \$5,705,830 for fiscal year 1994; and
- “(v) \$5,962,593 for fiscal year 1995.”

Subsec. (b)(2)(B)(iv) to (vi). Pub. L. 104-150, § 2(b)(2), inserted “and” at end of cl. (iv), redesignated cl. (vi) as (v), and struck out former cl. (v) which read as follows: “program development grants as authorized by section 1454 of this title, in an amount not to exceed \$200,000 for each of fiscal years 1997, 1998, and 1999; and”.

Subsec. (b)(2)(B)(v). Pub. L. 104-150, § 5(b), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “program development grants as authorized by section 1454 of this title; and”.

1992—Pub. L. 102-587, § 2205(b)(15), made technical amendment to Pub. L. 101-508. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-587, § 2205(b)(16), in first sentence, made technical amendment to reference to this chapter to reflect change in corresponding provision of original act.

Pub. L. 102-587, § 2205(b)(1)(A), substituted “coastal state” for “coastal State” in two places.

Subsec. (b)(1). Pub. L. 102-587, § 2205(b)(17), (18), struck out “(hereinafter in this section referred to as the ‘Fund’)” after “Management Fund” and inserted “and fees deposited into the Fund under section 1456(i)(3) of this title” after “subsection (a)”.

Subsec. (b)(2)(B)(vi). Pub. L. 102-587, § 2205(b)(1)(B), substituted “coastal states” for “coastal States”.

1990—Pub. L. 101-508, as amended by Pub. L. 102-587, § 2205(b)(15), amended section generally, substituting present provisions for provisions authorizing a coastal energy impact program, providing for administration of program, audit, financial assistance, rules and regulations and guarantees, establishing eligibility requirements for assistance, creating a Coastal Energy Impact Fund, prohibiting interference in any land or water use decision of any coastal state, requiring reports to Congress, and providing for definitions for the section.

1986—Subsec. (h). Pub. L. 99-272 substituted “subsections (c)” for “subsections (c)(1)” wherever appearing.

1980—Subsec. (c)(3). Pub. L. 96-464, § 7(1), added par. (3).

Subsec. (d)(4). Pub. L. 96-464, § 7(2), struck out par. (4) which provided that the Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state’s coastal zone of any valuable environmental or recreational resource, if such loss results from coastal energy activity, if the Secretary finds that such state has not received amounts under subsec. (b) of this section which are sufficient to prevent, reduce, or ameliorate such loss.

1978—Subsec. (a)(1)(A). Pub. L. 95-372, § 501(b)(1), substituted “subsection (b)(5) of this section” for “subsection (b)(4) of this section”.

Subsec. (a)(1)(B). Pub. L. 95-372, § 503(b)(1), substituted “subsection (c)(1) of this section” for “subsection (c) of this section”.

Subsec. (a)(1)(C) to (G). Pub. L. 95-372, § 503(b)(2), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G), respectively.

Subsec. (b)(2). Pub. L. 95-372, § 501(a), substituted in provisions preceding subpar. (A) “Subject to paragraph (3), the amounts payable” for “The amounts granted” and “subparagraphs (A), (B), and (C)” for “subparagraphs (A), (B), (C), and (D)”, in subpar. (A) “one-half” for “one-third”, and in subpars. (B) and (C) “one-quarter” for “one-sixth” and struck out subpar. (D), which related to a ratio involving the number of individuals who obtain new employment as a result of new or expanded outer Continental Shelf energy activities.

Subsec. (b)(3). Pub. L. 95-372, § 501(b)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95-372, § 501(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 95-372, § 501(b)(1), (c), redesignated par. (4) as (5) and, in par. (5) as so redesignated, struck out in subpar. (B)(i) provisions relating to the unavailability of adequate financing under any other subsection and inserted provisions following subpar. (B)(ii) authorizing the Secretary to describe the geographic areas in which the public facilities and public services referred to in subpar. (B)(i) shall be presumed to be required as a result of outer Continental Shelf energy activities for purposes of disbursing the proceeds of grants under this subsection. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 95-372, § 501(b)(1), redesignated par. (5) as (6) and, in par. (6) as so redesignated, in provisions preceding subpar. (A) and in subpar. (B) substituted “paragraph (5)” for “paragraph (4)”.

Subsec. (c). Pub. L. 95-372, § 503(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 95-372, § 503(c), substituted “subsections (c)(1)” for “subsections (c)” wherever appearing.

Subsec. (k). Pub. L. 95-372, §§ 501(b)(1), 503(d), substituted in par. (1) “subsection (b)(5)(B) and (c)(1)” for “subsection (b)(4)(B) and (c)” and in par. (2) “subsection (b)(5)(B)” for “(b)(4)(B)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2(b)(2) of Pub. L. 104-150 effective Oct. 1, 1999, see section 2(b)(3) of Pub. L. 104-150, set out as a note under section 1454 of this title.

RESCISSION OF BALANCES AND FUTURE PAYMENTS

Pub. L. 112-55, div. B, title I, § 109, Nov. 18, 2011, 125 Stat. 602, provided that: “All balances in the Coastal Zone Management Fund, whether unobligated or unavailable, are hereby permanently rescinded, and notwithstanding section 308(b) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456a[b]), any future payments to the Fund made pursuant to sections 307 (16 U.S.C. 1456) and 308 (16 U.S.C. 1456a) of the Coastal Zone Management Act of 1972, as amended, shall, in this fiscal year and any future fiscal years, be treated in accordance with the Federal Credit Reform Act of 1990, as amended [2 U.S.C. 661 et seq.].”

EXTENSION OF AUTHORITY TO MAKE LOANS UNDER SUBSECTION (d)(1)

Pub. L. 99-626, § 6, Nov. 7, 1986, 100 Stat. 3506, provided that: “The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92-583, 16 U.S.C. 1451, et seq.) as amended [16 U.S.C. 1456a(d)(1)], shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to \$7,000,000.”

§ 1456b. Coastal zone enhancement grants

(a) “Coastal zone enhancement objective” defined

For purposes of this section, the term “coastal zone enhancement objective” means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation’s coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

(b) Limits on grants

(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 1455 of this title, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 1455(e) of this title.

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(c) Evaluation of State proposals by Secretary

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

(d) Promulgation of regulations by Secretary

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in section 1463 of this title, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

(1) specific and detailed criteria that must be addressed by a coastal state (including the State’s priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State’s development and implementation of coastal zone enhancement objectives;

(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

(e) No State contribution required

A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

(f) Funding

Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 1455 and 1455a of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of \$10,000,000 annually.

(g) Eligibility; suspension of State for noncompliance

If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.

(Pub. L. 89-454, title III, §309, as added Pub. L. 94-370, §8, July 26, 1976, 90 Stat. 1028; amended Pub. L. 96-464, §8, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 101-508, title VI, §6210, Nov. 5, 1990, 104 Stat. 1388-309; Pub. L. 102-587, title II, §2205(b)(1)(B), Nov. 4, 1992, 106 Stat. 5050; Pub. L. 104-150, §§3, 7(2), June 3, 1996, 110 Stat. 1380, 1382.)

CODIFICATION

November 5, 1990, referred to in subsec. (d), was in the original "the date of enactment of this section", and was translated as meaning the date of enactment of section 6210 of Pub. L. 101-508, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (a)(9). Pub. L. 104-150, §7(2), added par. (9).

Subsec. (b). Pub. L. 104-150, §3, designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (b). Pub. L. 102-587 substituted "coastal states" for "coastal States".

1990—Pub. L. 101-508 amended section generally, substituting present provisions for provisions providing for interstate grants and agreements for developing and administering coordinated coastal zone planning and programs, setting priorities for unified coastal zone policies in contiguous areas of coastal states, providing for a Federal-State consultation procedure, authorizing temporary planning and coordinated activity, and establishing eligibility of States to receive Federal assistance.

1980—Pub. L. 96-464 amended section generally and, among many changes, made a number of technical amendments, and inserted provision making it clear that only states which meet the basic eligibility requirements in this chapter can receive funding under this section.

§ 1456c. Technical assistance

(a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 1456b of this title, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of

information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection.

(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

(2) The Secretary shall make the results of research and studies conducted pursuant to this section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.

(Pub. L. 89-454, title III, §310, as added Pub. L. 101-508, title VI, §6211, Nov. 5, 1990, 104 Stat. 1388-311.)

PRIOR PROVISIONS

A prior section 1456c, Pub. L. 89-454, title III, §310, as added Pub. L. 94-370, §9, July 26, 1976, 90 Stat. 1029, related to research and technical assistance for coastal zone management, prior to repeal by Pub. L. 99-272, title VI, §6045(1), Apr. 7, 1986, 100 Stat. 127.

§ 1456d. Coastal and Estuarine Land Conservation Program

The Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses: *Provided further*, That by September 30, 2002, the Secretary shall issue guidelines for this program delineating the criteria for grant awards: *Provided further*, That the Secretary shall distribute these funds in consultation with the States' Coastal Zone Managers' or Governors' designated representatives based on demonstrated need and ability to successfully leverage funds, and shall give priority to lands which can be effectively managed and protected and which have significant ecological value: *Provided further*, That grants funded under this program shall require a 100 percent match from other sources.

(Pub. L. 107-77, title II, Nov. 28, 2001, 115 Stat. 776.)

CODIFICATION

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2002, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

SIMILAR PROVISIONS

Pub. L. 108-7, div. B, title II, Feb. 20, 2003, 117 Stat. 75, provided in part: "That the Secretary shall establish a

Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses”.

§ 1457. Public hearings

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(Pub. L. 89-454, title III, §311, formerly §308, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287; renumbered §311, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019.)

§ 1458. Review of performance

(a) Evaluation of adherence with terms of grants

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 1452(2)(A) through (K) of this title, and adhered to the terms of any grant, loan, or cooperative agreement funded under this chapter.

(b) Public participation; notice of meetings; reports

In evaluating a coastal state's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

(c) Suspension of financial assistance for non-compliance; notification of Governor; length of suspension

(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance,

if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

(d) Withdrawal of approval of program

The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A).

(e) Notice and hearing

Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(Pub. L. 89-454, title III, §312, formerly §309, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, renumbered §312 and amended Pub. L. 94-370, §§7, 10, July 26, 1976, 90 Stat. 1019, 1029; Pub. L. 96-464, §9(a), Oct. 17, 1980, 94 Stat. 2065; Pub. L. 99-272, title VI, §6043(a), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §§6212, 6216(b), Nov. 5, 1990, 104 Stat. 1388-311, 1388-314; Pub. L. 102-587, title II, §2205(b)(1)(A), (C), Nov. 4, 1992, 106 Stat. 5050.)

AMENDMENTS

1992—Subsecs. (b), (c)(1). Pub. L. 102-587 substituted “coastal state's” for “coastal State's” in subsec. (b) and “coastal state” for “coastal State” after “any” in subsec. (c)(1).

1990—Subsec. (a). Pub. L. 101-508, §6216(b), substituted “through (K)” for “through (I)”.

Subsec. (b). Pub. L. 101-508, §6212(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.”

Subsec. (c). Pub. L. 101-508, § 6212(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary shall reduce any financial assistance extended to any coastal state under section 1455 of this title (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (I) of this title; or

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 1455(i)(A) and (B) of this title."

Subsec. (d). Pub. L. 101-508, § 6212(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 1455 of this title, and refuses to remedy the deviation."

Subsec. (f). Pub. L. 101-508, § 6212(d), struck out subsec. (f) which read as follows: "The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management."

1986—Subsec. (c). Pub. L. 99-272 designated existing provisions relating to failure to achieve objectives specified in section 1452(2)(A) through (I) as par. (1), and added par. (2).

1980—Subsec. (a). Pub. L. 96-464 substituted provisions relating to continuing review of coastal states performance with respect to coastal management for provisions relating to continuing review of management programs of coastal states, the performance of such states with respect to coastal zone management, and coastal energy impact program.

Subsec. (b). Pub. L. 96-464 substituted provisions relating to public meeting and comments for provisions relating to termination of financial assistance.

Subsecs. (c) to (f). Pub. L. 96-464 added subsecs. (c) to (f).

1976—Subsec. (a). Pub. L. 94-370, § 10, designated existing provisions as par. (1), substituted "such states with respect to coastal zone management; and" for "each state.", and added par. (2).

REGULATIONS

Pub. L. 96-464, § 9(b), Oct. 17, 1980, 94 Stat. 2066, provided that: "Within two hundred and seventy days after the date of the enactment of this Act [Oct. 17, 1980], the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section) [this section]."

§ 1459. Records and audit

(a) Maintenance of records by recipients of grants or financial assistance

Each recipient of a grant under this chapter or of financial assistance under section 1456a of this title, as in effect before November 5, 1990, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access by Secretary and Comptroller General to records, books, etc., of recipients of grants or financial assistance for audit and examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

(1) after any grant is made under this chapter or any financial assistance is provided under section 1456a of this title, as in effect before November 5, 1990; and

(2) until the expiration of 3 years after—

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this chapter.

(Pub. L. 89-454, title III, § 313, formerly § 310, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287; renumbered § 313 and amended Pub. L. 94-370, §§ 7, 11, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 102-587, title II, § 2205(b)(19), Nov. 4, 1992, 106 Stat. 5052.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-587, § 2205(b)(19)(A), substituted "section 1456a of this title, as in effect before November 5, 1990," for "section 1456a of this title".

Subsec. (b)(1). Pub. L. 102-587, § 2205(b)(19)(B), substituted "section 1456a of this title, as in effect before November 5, 1990; and" for "section 1456a(d) of this title; and".

1976—Subsec. (a). Pub. L. 94-370, § 11(2), inserted "or of financial assistance under section 1456a of this title" after "grant under this chapter" and "and of the proceeds of such assistance" after "received under the grant".

Subsec. (b). Pub. L. 94-370, § 11(3), inserted provisions limiting duration of authority to 3 years after completion of project or repayment of loan and enlarged scope of access to include persons who entered into transactions relating to the grant of funds.

§ 1460. Walter B. Jones excellence in coastal zone management awards

(a) Establishment

The Secretary shall, using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

(b) Annual selection of recipients

The Secretary shall elect annually—

(1) one individual, other than an employee or officer of the Federal Government, whose con-

tribution to the field of coastal zone management has been the most significant;

(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this chapter; and

(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

(c) Solicitation of nominations for local government recipients

In making selections under subsection (b)(2) the Secretary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

(d) Solicitation of nominations for graduate student recipients

In making selections under subsection (b)(3) the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

(e) Funding; types of awards

Using sums in the Coastal Zone Management Fund established under section 1456a of this title and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title), the Secretary shall establish and execute appropriate awards, to be known as the "Walter B. Jones Awards", including—

- (1) cash awards in an amount not to exceed \$5,000 each;
- (2) research grants; and
- (3) public ceremonies to acknowledge such awards.

(Pub. L. 89-454, title III, §314, formerly §313, as added Pub. L. 101-508, title VI, §6213, Nov. 5, 1990, 104 Stat. 1388-312; renumbered §314 and amended Pub. L. 102-587, title II, §2205(b)(20), Nov. 4, 1992, 106 Stat. 5052.)

PRIOR PROVISIONS

A prior section 1460, Pub. L. 89-454, title III, §314, formerly §311, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287; renumbered §314, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019, related to establishment, etc., of Coastal Zone Management Advisory Committee, prior to repeal by Pub. L. 99-272, title VI, §6045(2), Apr. 7, 1986, 100 Stat. 127.

AMENDMENTS

1992—Subsecs. (a), (e). Pub. L. 102-587, §2205(b)(20)(B), (C), after "under section 1456a of this title" inserted "and other amounts available to carry out this chapter (other than amounts appropriated to carry out sections 1454, 1455, 1455a, 1456b, 1456c, and 1461 of this title)".

§ 1461. National Estuarine Research Reserve System

(a) Establishment of System

There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the "System") that consists of—

- (1) each estuarine sanctuary designated under this section as in effect before April 7, 1986; and

- (2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) Designation of national estuarine reserves

After April 7, 1986, the Secretary may designate an estuarine area as a national estuarine reserve if—

- (1) the Governor of the coastal state in which the area is located nominates the area for that designation; and

- (2) the Secretary finds that—

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal state provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal state in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

(c) Estuarine research guidelines

The Secretary shall develop guidelines for the conduct of research within the System that shall include—

- (1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in paragraph (1) may be measured; and

(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this chapter, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

(d) Promotion and coordination of estuarine research

The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

- (1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority

consideration to research that uses the System; and

(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

(e) Financial assistance

(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal state—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal states to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less.

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) may not exceed 70 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System.

(C) Notwithstanding subparagraphs (A) and (B), financial assistance under this subsection provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance.

(f) Evaluation of System performance

(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent

with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

(g) Report

The Secretary shall include in the report required under section 1462 of this title information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f).

(Pub. L. 89-454, title III, §315, formerly §312, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288; renumbered §315 and amended Pub. L. 94-370, §§7, 12, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96-464, §11, Oct. 17, 1980, 94 Stat. 2067; Pub. L. 99-272, title VI, §6044, Apr. 7, 1986, 100 Stat. 125; Pub. L. 101-508, title VI, §6214, Nov. 5, 1990, 104 Stat. 1388-313; Pub. L. 102-587, title II, §2205(b)(1)(A), (B), (21), (22), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104-150, §6, June 3, 1996, 110 Stat. 1381.)

AMENDMENTS

1996—Subsec. (e)(3)(C). Pub. L. 104-150 added subpar. (C).

1992—Subsec. (a). Pub. L. 102-587, §2205(b)(21), substituted “Research Reserve” for “Reserve Research”.

Subsec. (b). Pub. L. 102-587, §2205(b)(1)(A), substituted “coastal state” for “coastal State” in pars. (1) and (2)(B) and (D).

Subsec. (c)(4). Pub. L. 102-587, §2205(b)(22), substituted “paragraph (1)” for “subsection (1)”.

Subsec. (e). Pub. L. 102-587, §2205(b)(1)(A), (B), substituted “coastal state” for “coastal State” in par. (1)(A) and (B) and “coastal states” for “coastal States” in par. (2).

1990—Pub. L. 101-508, §6214(a), substituted “Research Reserve” for “Reserve Research” in section catchline.

Subsec. (e)(3)(A). Pub. L. 101-508, §6214(b), (d), substituted “percent” for “per centum” and “\$5,000,000” for “\$4,000,000”, and struck out “of subsection (e) of this section” after “paragraph (1)(A)(i)”.

Subsec. (e)(3)(B). Pub. L. 101-508, §6214(c), (d), substituted “70 percent” for “50 per centum”, struck out “of subsection (e) of this section” after “paragraph (1)(B)” and inserted before period at end “; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System”.

1986—Pub. L. 99-272 amended section generally. Prior to amendment, section read as follows: “The Secretary may, in accordance with this section and in accordance with such rules and regulations as the Secretary shall promulgate, make grants to any coastal state for the purpose of—

“(1) acquiring, developing, or operating estuarine sanctuaries, to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone; and

“(2) acquiring lands to provide for the preservation of islands, or portions thereof.

The amount of any such grant shall not exceed 50 per centum of the cost of the project involved; except that, in the case of acquisition of any estuarine sanctuary, the Federal share of the cost thereof shall not exceed \$3,000,000. No grant for acquisition of land may be made under this section without the approval of the Governor of the State in which is located the land proposed to be acquired.”

1980—Pub. L. 96-464, in par. (2), substituted “the preservation of islands, or portions thereof” for “access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value, and for the preservation of islands”; and in provision following par. (2), raised the spending limitation of \$2,000,000 to \$3,000,000 and inserted provision that no grant for acquisition of land may be made under this section without the approval of the Governor of the state in which the land proposed to be acquired is located.

1976—Pub. L. 94-370, §12, restructured existing provisions into pars. (1) and (2), inserted purpose of acquiring lands to provide for access to beaches and other coastal areas and for the preservation of islands, and struck out proviso that no Federal funds received pursuant to sections 1454 or 1455 of this title be used for purposes of this section.

§ 1462. Coastal zone management reports

(a) Biennial reports

The Secretary shall consult with the Congress on a regular basis concerning the administration of this chapter and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this chapter during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved, and a statement of the reasons for such actions; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 1458 of this title, and a description of any sanctions imposed under subsections (c) and (d) of section 1458 of this title; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification

and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this chapter in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 1456a of this title in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

(b) Recommendations for legislation

The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation.

(c) Review of other Federal programs; report to Congress

(1) The Secretary shall conduct a systematic review of Federal programs, other than this chapter, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this chapter. Not later than 1 year after October 17, 1980, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this chapter identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

(Pub. L. 89-454, title III, §316, formerly §313, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288; renumbered §316 and amended Pub. L. 94-370, §7, 13, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 96-464, §10, Oct. 17, 1980, 94 Stat. 2066; Pub. L. 102-587, title II, §2205(b)(23), Nov. 4, 1992, 106 Stat. 5052.)

AMENDMENTS

1992—Subsec. (a)(5). Pub. L. 102-587 substituted “subsections (c) and (d) of section 1458 of this title” for “subsections (c) and (d) of this section”.

1980—Subsec. (a). Pub. L. 96-464, §10(2), in provision preceding opening sentence, substituted provisions that the Secretary consult with Congress concerning the administration of this chapter and prepare and submit a biennial report to the President for transmittal to Congress for provisions that the Secretary prepare and submit to the President for transmittal to Congress an annual report for the preceding year not later than November 1 of each year, in cl. (4), substituted “reviewed and disapproved and a” for “reviewed and disapproved or with respect to which grants have been terminated under this chapter, and a”, added cl. (5), and redesignated cls. (5) to (12) as (6) to (13) respectively.

Subsec. (c). Pub. L. 96-464, §10(3), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-370, §13, added cls. (9) to (11) and redesignated former cl. (9) as (12).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmittal to Congress of a biennial report summarizing the administration of this chapter, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 53 of House Document No. 103-7.

SHELLFISH SANITATION

Pub. L. 94-370, §16, July 26, 1976, 90 Stat. 1032, provided that:

“(a) The Secretary of Commerce shall—

“(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

“(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

“(b) The Secretary of Health, Education, and Welfare [now Health and Human Services] shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.”

ASSIGNMENT OF REPORTING FUNCTION

Memorandum of President of the United States, Aug. 5, 2005, 70 F.R. 46397, provided:

Memorandum for the Secretary of Commerce

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the functions of the President under section 316 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, *et seq.*).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 1463. Rules and regulations

The Secretary shall develop and promulgate, pursuant to section 553 of title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter.

(Pub. L. 89-454, title III, §317, formerly §314, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1288; renumbered §317, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019.)

§ 1463a. Omitted

CODIFICATION

Section, Pub. L. 96-464, §12(a)-(g), Oct. 17, 1980, 94 Stat. 2067; Pub. L. 98-620, title IV, §402(20), Nov. 8, 1984, 98 Stat. 3358, which required the Secretary of Commerce to submit to Congress any final rule promulgated pursuant to this chapter and provided procedures for Congressional disapproval of such rules was omitted pursuant to section 12(h) of Pub. L. 96-464, which provided that this section would cease to have any force or effect after Sept. 30, 1985.

§ 1463b. National Coastal Resources Research and Development Institute

(a) Establishment by Secretary; administration

The Secretary of Commerce shall provide for the establishment of a National Coastal Resources Research and Development Institute (hereinafter in this section referred to as the “Institute”) to be administered by the Oregon State Marine Science Center.

(b) Purposes of Institute

The Institute shall conduct research and carry out educational and demonstration projects designed to promote the efficient and responsible development of ocean and coastal resources, including arctic resources. Such projects shall be based on biological, geological, genetic, economic and other scientific research applicable to the purposes of this section and shall include studies on the economic diversification and environmental protection of the Nation’s coastal areas.

(c) Determination of Institute policies

(1) The policies of the Institute shall be determined by a Board of Governors composed of—

(A) two representatives appointed by the Governor of Oregon;

(B) one representative appointed by the Governor of Alaska;

(C) one representative appointed by the Governor of Washington;

(D) one representative appointed by the Governor of California; and

(E) one representative appointed by the Governor of Hawaii.

(2) Such policies shall include the selection, on a nationally competitive basis, of the research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) Establishment of Advisory Council; functions and composition

(1) The Board of Governors shall establish an Advisory Council composed of specialists in ocean and coastal resources from the academic community.

(2) To the maximum extent practicable, the Advisory Council shall be composed of such specialists from every coastal region of the Nation.

(3) The Advisory Council shall provide such advice to the Board of Governors as such Board shall request, including recommendations regarding the support of research, projects, and studies in accordance with the purposes of this section.

(e) Administration of Institute

The Institute shall be administered by a Director who shall be appointed by the Chancellor of the Oregon Board of Higher Education in consultation with the Board of Governors.

(f) Evaluation of Institute by Secretary

The Secretary of Commerce shall conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute under this section are used in a manner consistent with the provisions of this section.

(g) Report to Secretary

The Institute shall report to the Secretary of Commerce on its activities within 2 years after July 17, 1984.

(h) Access to Institute books, records, and documents

The Comptroller General of the United States, and any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the Institute that are pertinent to the funds received under this section.

(i) Status of Institute employees

Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(j) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated in each fiscal year \$5,000,000, commencing with fiscal year 1985.

(Pub. L. 98-364, title II, §201, July 17, 1984, 98 Stat. 443.)

REFERENCES IN TEXT

This section, referred to in subsecs. (a) to (d), (f), (h) and (j), was in the original “this title”, meaning title II of Pub. L. 98-364, which enacted this section.

CODIFICATION

Section was not enacted as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1464. Authorization of appropriations**(a) Sums appropriated to Secretary**

There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under sections 1455, 1455a, and 1456b of this title—

- (A) \$47,600,000 for fiscal year 1997;
- (B) \$49,000,000 for fiscal year 1998; and
- (C) \$50,500,000 for fiscal year 1999; and

(2) for grants under section 1461 of this title—

- (A) \$4,400,000 for fiscal year 1997;
- (B) \$4,500,000 for fiscal year 1998; and
- (C) \$4,600,000 for fiscal year 1999.

(b) Limitations

Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 1455 or 1456b of this title.

(c) Reversion to Secretary of unobligated State funds; availability of funds

The amount of any grant, or portion of a grant, made to a State under any section of this

chapter which is not obligated by such State during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available.

(Pub. L. 89-454, title III, §318, formerly §315, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1289; amended Pub. L. 93-612, §1(3), Jan. 2, 1975, 88 Stat. 1974; renumbered §318 and amended Pub. L. 94-370, §§7, 14, July 26, 1976, 90 Stat. 1019, 1031; Pub. L. 95-372, title V, §§502, 503(e), (f), Sept. 18, 1978, 92 Stat. 692, 693; Pub. L. 96-464, §13, Oct. 17, 1980, 94 Stat. 2070; Pub. L. 99-272, title VI, §6046, Apr. 7, 1986, 100 Stat. 127; Pub. L. 99-626, §7, Nov. 7, 1986, 100 Stat. 3506; Pub. L. 101-508, title VI, §6215, Nov. 5, 1990, 104 Stat. 1388-313; Pub. L. 104-150, §4, June 3, 1996, 110 Stat. 1381.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act” which was translated as reading “this title”, meaning title III of Pub. L. 89-454 which is classified generally to this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-150, §4(1), amended subsec. (a) generally, substituting provisions of pars. (1) and (2) setting forth appropriations for grants under sections 1455, 1455a, 1456b, and 1461 for fiscal years 1997, 1998, and 1999 for provisions of pars. (1) to (4) setting forth appropriations for grants under sections 1454, 1455, 1455a, 1456b, and 1461 and activities under section 1456c for fiscal years during the period beginning Oct. 1, 1990, and ending Sept. 30, 1995.

Subsecs. (b) to (d). Pub. L. 104-150, §4(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed \$800,000,000, for the purposes of carrying out the provisions of section 1456a of this title, other than subsection (b), of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section.”

1990—Subsec. (a)(1) to (4). Pub. L. 101-508 substituted pars. (1) to (4) for former pars. (1) to (5) which read as follows:

“(1) such sums, not to exceed \$35,000,000 for the fiscal year ending September 30, 1986, not to exceed \$36,600,000 for the fiscal year ending September 30, 1987, \$37,900,000 for the fiscal year ending September 30, 1988, \$38,800,000 for the fiscal year ending September 30, 1989, and \$40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 1455 and 1455a of this title, to remain available until expended;

“(2) such sums, not to exceed \$75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 1456a(b) of this title;

“(3) such sums, not to exceed \$1,000,000 for the fiscal year ending September 30, 1986, and not to exceed \$1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 1456b of this title, to remain available until expended;

“(4) such sums, not to exceed \$2,500,000 for the fiscal year ending September 30, 1986, not to exceed \$3,800,000 for the fiscal year ending September 30, 1987, \$4,500,000 for the fiscal year ending September 30, 1988, \$5,000,000 for the fiscal year ending September 30, 1989, and

\$5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 1461 of this title, to remain available until expended; and

“(5) such sums, not to exceed \$3,300,000 for the fiscal year ending September 30, 1986, not to exceed \$3,300,000 for the fiscal year ending September 30, 1987, \$3,300,000 for the fiscal year ending September 30, 1988, \$4,000,000 for the fiscal year ending September 30, 1989, and \$4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this chapter.”

1986—Subsec. (a)(1). Pub. L. 99-272, § 6046(1), substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under sections 1455 and 1455a of this title, for authorization of appropriations of \$48,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455 of this title.

Subsec. (a)(2). Pub. L. 99-272, § 6046(2), redesignated par. (3) as (2), and struck out former par. (2) which authorized appropriations of \$20,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1455a of this title.

Subsec. (a)(3). Pub. L. 99-272, § 6046(2), (3), redesignated par. (4) as (3) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1456b of this title, for authorization of appropriations of \$3,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1456b of this title. Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 99-272, § 6046(2), (3), redesignated par. (5) as (4) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for grants under section 1461 of this title, for authorization of appropriations of \$9,000,000 for each of fiscal years 1981 through 1985 necessary for grants under section 1461 of this title. Former par. (4) redesignated (3).

Subsec. (a)(5), (6). Pub. L. 99-272, § 6046(2), (3), redesignated par. (6) as (5) and substituted authorization of appropriations for each of fiscal years 1986 through 1990 necessary for administrative expenses incident to administration of this chapter, for authorization of appropriations of \$6,000,000 for each of fiscal years 1981 through 1985 necessary for such administrative expenses. Former par. (5) redesignated (4).

Subsec. (d). Pub. L. 99-626 added subsec. (d).

1980—Subsec. (a)(1). Pub. L. 96-464, § 13(1), redesignated par. (2) as (1) and substituted authorization of appropriation of \$48,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of \$50,000,000 for fiscal years 1977 through 1980. Former par. (1), which authorized appropriation of \$20,000,000 for fiscal years 1977 through 1979 for grants under section 1454 of this title, was struck out.

Subsec. (a)(2). Pub. L. 96-464, § 13(1), added par. (2). Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 96-464, § 13(1), substituted authorization of appropriation of \$75,000,000 for each of the fiscal years 1981 through 1988, for authorization of appropriation of \$50,000,000 for each of the fiscal years 1977 and 1978, and \$130,000,000 for each of the fiscal years 1979 through 1988.

Subsec. (a)(4). Pub. L. 96-464, § 13(1), redesignated par. (5) as (4) and substituted authorization of appropriation of \$3,000,000 for each of the fiscal years 1981 through 1985, for authorization of appropriation of \$5,000,000 for each of the fiscal years 1977 through 1980. Former par. (4), which authorized appropriation of \$5,000,000 for each of the fiscal years 1979 through 1983 for grants under section 1456a(c)(2) of this title, was struck out.

Subsec. (a)(5). Pub. L. 96-464, § 13(1), combined in par. (5), authorization of appropriation of \$31,000,000 for grants under section 1461 of this title for fiscal years 1977 through 1980 formerly contained in pars. (7) and (8), and authorized appropriation of \$9,000,000 for grants under section 1461 of this title for fiscal years 1981 through 1985. Former par. (5) redesignated (4).

Subsec. (a)(6). Pub. L. 96-464, § 13(1), redesignated par. (9) as (6) and substituted authorization of appropriation

of \$6,000,000 for fiscal years 1981 through 1985, for authorization of appropriation of \$5,000,000 for fiscal years 1977 through 1980. Former par. (6), which contained authorization of appropriation of \$10,000,000 for fiscal years 1977 through 1980 for financial assistance under section 1456c of this title with equal division between subsecs. (a) and (b), was struck out.

Subsec. (a)(7) to (9). Pub. L. 96-464, § 13(1), combined provisions of pars. (7) and (8) into par. (5) and redesignated par. (9) as (6).

Subsec. (b). Pub. L. 96-464, § 13(2), substituted “subsection (b) of this section, of which not to exceed \$150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section” for “subsections (b) and (c)(2), of which not to exceed \$50,000,000 shall be for purposes of subsections (c)(1) and (d)(4) of such section”.

Subsec. (c). Pub. L. 96-464, § 13(3), substituted “section 1455 or 1456b of this title” for “section 1454, 1455, 1456b or 1456c of this title”.

1978—Subsec. (a)(3). Pub. L. 95-372, § 502, substituted “for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed \$130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988,” for “for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984.”

Subsec. (a)(4) to (9). Pub. L. 95-372, § 503(e), added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

Subsec. (b). Pub. L. 95-372, § 503(f), substituted “subsections (b) and (c)(2)” for “subsection (b)” and “subsections (c)(1)” for “subsections (c)”.

1976—Subsec. (a)(1). Pub. L. 94-370, § 14, substituted provisions authorizing appropriations of sums not to exceed \$20,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, and Sept. 30, 1979 for provisions authorizing appropriations of the sum of \$9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977.

Subsec. (a)(2). Pub. L. 94-370, § 14, substituted provisions authorizing appropriations of sums not to exceed \$50,000,000 for each of the fiscal years ending Sept. 30, 1977, Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980 for provisions authorizing appropriations of sums not to exceed \$30,000,000 for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977.

Subsec. (a)(3). Pub. L. 94-370, § 14, substituted provisions authorizing appropriations of sums not to exceed \$50,000,000 for each of the 8 fiscal years occurring during the period beginning Oct. 1, 1976, and ending Sept. 30, 1984, as may be necessary for grants under section 1456a(b) of this title for provisions authorizing appropriations of sums not to exceed \$6,000,000 for the fiscal year ending June 30, 1974, as may be necessary for grants under section 1461 of this title, to remain available until expended.

Subsec. (a)(4) to (8). Pub. L. 94-370, § 14, added pars. (4) to (8).

Subsec. (b). Pub. L. 94-370, § 14, substituted provisions authorizing appropriations until Oct. 1, 1986 to the Fund of sums not to exceed \$800,000,000 for the purpose of carrying out provisions of section 1456a of this title, other than subsec. (b) of such section, of which sums not to exceed \$50,000,000 shall be for purposes of subsecs. (c) and (d)(4) of such section for provisions authorizing appropriations of sums not to exceed \$3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses for administration of this chapter.

Subsec. (c). Pub. L. 94-370, § 14, added subsec. (c).

1975—Subsec. (a)(1). Pub. L. 93-612, § 1(3)(A), increased from \$9,000,000 to \$12,000,000 the sums authorized to be appropriated for the 3 fiscal years following the fiscal year 1974.

Subsec. (a)(3). Pub. L. 93-612, § 1(3)(B), inserted “and for each of the three succeeding fiscal years,” after “fiscal year ending June 30, 1974.”

§ 1465. Appeals to the Secretary**(a) Notice**

Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 1456 of this title, the Secretary shall publish an initial notice in the Federal Register.

(b) Closure of record**(1) In general**

Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

(2) Notice

After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

(3) Exception**(A) In general**

Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

(ii) as the Secretary determines necessary to receive, on an expedited basis—

(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this chapter; or

(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

(B) Applicability

The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

(c) Deadline for decision**(1) In general**

Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

(2) Subsequent decision

Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.

(Pub. L. 89-454, title III, §319, as added Pub. L. 104-150, §8, June 3, 1996, 110 Stat. 1382; amended Pub. L. 109-58, title III, §381, Aug. 8, 2005, 119 Stat. 737.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(3)(A)(ii)(I), was in the original “this Act” which was translated as

reading “this title”, meaning title III of Pub. L. 89-454 which is classified generally to this chapter, to reflect the probable intent of Congress.

AMENDMENTS

2005—Pub. L. 109-58 amended section catchline and text generally, substituting provisions relating to notice, closure of record, and deadline for decision for provisions relating to notice, deadline for decision, and application of section.

§ 1466. Appeals relating to offshore mineral development

For any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

(Pub. L. 109-58, title III, §382, Aug. 8, 2005, 119 Stat. 738.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in text, is title III of Pub. L. 89-454, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to this chapter (§1451 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 2005, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

CHAPTER 34—RURAL ENVIRONMENTAL CONSERVATION PROGRAM**§§ 1501 to 1508. Repealed. Pub. L. 104-127, title III, §336(d)(1), Apr. 4, 1996, 110 Stat. 1006**

Section 1501, Pub. L. 91-524, title X, §1001, as added Pub. L. 93-86, §1(28), Aug. 10, 1973, 87 Stat. 241; amended Pub. L. 93-125, §1(g)(i), Oct. 18, 1973, 87 Stat. 450; Pub. L. 99-198, title XIII, §1318(b)(2), Dec. 23, 1985, 99 Stat. 1531, related to establishment and purpose of program, contracting and purchasing authority of Secretary, and maintenance of continuing and stable supply of agricultural commodities and forest products.

Section 1502, Pub. L. 91-524, title X, §1002, as added Pub. L. 93-86, §1(28), Aug. 10, 1973, 87 Stat. 242, required eligible landowners and operators to furnish plan of farming operations or land use to Secretary.

Section 1503, Pub. L. 91-524, title X, §1003, as added Pub. L. 93-86, §1(28), Aug. 10, 1973, 87 Stat. 242; amended Pub. L. 93-125, §1(g)(i), Oct. 18, 1973, 87 Stat. 450, related to approved conservation plans as basis for contracts, duties under contracts, and termination or modification of contracts.

Section 1504, Pub. L. 91-524, title X, §1004, as added Pub. L. 93-86, §1(28), Aug. 10, 1973, 87 Stat. 243, authorized furnishing of conservation materials to eligible owners and operators.

Section 1505, Pub. L. 91-524, title X, §1005, as added Pub. L. 93-86, §1(28), Aug. 10, 1973, 87 Stat. 243; amended